

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7230 Hughes Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
John Rowland	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0280-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by John Rowland, owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an existing side addition with a setback of 5 ft. in lieu of the minimum side setback of 10 ft. A site plan was marked as Petitioner’s Exhibit 1.

John Rowland appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS). That agency noted Petitioner must comply with critical area regulations.

The site is approximately 10,000 square feet in size and zoned DR 5.5. The property is improved with a single-family dwelling (1,288 sq. ft.) which was constructed in 1990. Petitioner began construction of a mudroom addition on the side of the dwelling, and was issued a stop work order by Baltimore County. Petitioner was informed he needed to obtain permit(s) for the construction project, and that a variance was required for the deficient side yard setback.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is narrow and deep (50' x 200') and the irregular dimensions necessitate zoning setback relief. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to construct the proposed addition. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition. In addition, Petitioner noted his neighbor at 7228 Hughes Avenue was granted similar zoning relief in 1998 (Case No. 1998-0276-A), and thus I believe the proposed improvements will be compatible with the neighborhood.

THEREFORE, IT IS ORDERED, this 14th day of **June, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to §1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit an existing addition to a dwelling with a side yard setback of 5 ft. in lieu of the minimum 10 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must prior to issuance of permit(s) comply with critical area regulations.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln